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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/989,261      | 11/20/2001  | Eamonn P. Hobbs      | ANGIO P-26          | 9573             |

26418 7590 06/17/2005

REED SMITH, LLP  
ATTN: PATENT RECORDS DEPARTMENT  
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NEW YORK, NY 10022-7650

EXAMINER

SIRMONS, KEVIN C

ART UNIT PAPER NUMBER

3763

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                  |              |  |
|------------------------------|------------------|--------------|--|
| <b>Office Action Summary</b> | Application No.  | Applicant(s) |  |
|                              | 09/989,261       | HOBBS ET AL. |  |
|                              | Examiner         | Art Unit     |  |
|                              | Kevin C. Sirmons | 3763         |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 30-34, 38-60 and 64 is/are pending in the application.
- 4a) Of the above claim(s) 30-34 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 64 is/are allowed.
- 6) ☒ Claim(s) 38-40, 44-46, 59 and 60 is/are rejected.
- 7) ☒ Claim(s) 41-43 and 47-58 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38-40, 44-46, 59 and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Millar U.S. Pat. No. 4,850,358.

Millar discloses a catheter assembly comprising: at least one tube and a longitudinal companion member connected to one another at surfaces thereof along a predetermined zone (figs. 8-10); a linear engagement member (10), extending longitudinally through at least one of said tube and companion member (figs. 8-10), and engaging one of said tube and companion member at said zone to hold said tube and companion member together at said zone (figs. 8-10), said tube and said companion member being held together solely at said zone (figs. 8-10); said tube, said companion member and said linear engagement member extending proximal of said zone by an amount sufficient to extend out of the body of a patient in whom the catheter is embedded (figs. 5 and 12); withdrawal of said linear engagement member from said zone causing said tube and said companion member to disconnect and permitting separate, independent withdrawal of said tube and said companion member from the patient (cols. 12 and 13); as to claims 39-40, (figs. 12 and 13); as to claims 44-46, (any one point between the surfaces are flat); as to claims 59 and 60, (figs. 12 and 13).

***Response to Amendment***

The examiner notes that the amendment filed on 4/4/05 appears to be identical to the amendment filed on 9/29/04.

***Response to Arguments***

Applicant's arguments filed 4/4/05 have been fully considered but they are not persuasive.

Applicant appears to **have not** amended claim 38 in order to emphasize a particular relationship that Applicant believe structurally distinguishes over Millar. The claim has not been amended to make explicit that the two main catheter elements are connected to each other along a "common longitudinal zone."

Applicant has not defined zone. Additionally, applicant has not defined a common zone. Zone, common zone can be anything, including the substantially the entire catheter. Therefore, it is the examiner position that at least one tube and longitudinal companion member are connected to one another at surfaces thereof along a zone!

Even if applicant were to place "common zone" in the claim, it would the claim would remain rejected because as applicant has indicated the scope of the claim has not changed.

In summary, applicant arguments on page 12 regarding his specification will not be read into the claims. Therefore, the rejection is maintained.

***Allowable Subject Matter***

Claims 41-43 and 47-58 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 64 is allowable over the prior art of record.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

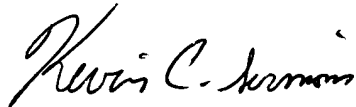
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin C. Sirmons whose telephone number is 571-272-4965. The examiner can normally be reached on Monday-Friday 6:30-4:00 ALT FRI.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin C. Sirmons  
Primary Examiner  
Art Unit 3763  
6/14/05

A handwritten signature in black ink, appearing to read "Kevin C. Sirmons", is written below the typed name.